## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Applicants | : | Jack J. Johnson et al. | | | |
| Application No. | : | 09/851,483 | Confirmation No. | : | 3783 |
| Filed | : | May 8, 2001 | | | |
| For | : | BIDDING FOR TELECOMMUNICATIONS TRAFFIC AND BILLING FOR SERVICE | | | |
| Group Art Unit | : | 3696 | | | |
| Examiner | : | Ojo O. Oyebisi | | | |

### APPEAL BRIEF

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Sir:

Applicants filed a Notice of Appeal in the above-identified patent application on March 26, 2008, along with a Pre-Appeal Brief Request for Review. Pursuant to the May 2, 2008 Notice of Panel Decision from Pre-Appeal Brief Review, the time period for filing an appeal brief in this patent application has been reset to the longer of one month from the mailing date of the Decision (*i.e.*, June 2, 2008), or the balance of the two-month time period running from the receipt of the Notice of Appeal (*i.e.*, May 26, 2008). Accordingly, applicants have submitted herewith a petition for a one-month extension of time, thereby extending the deadline for filing an appeal brief to July 2, 2008.

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I.      **Real Party In Interest**

The real party in interest in this appeal is Arbinet-thexchange, Inc., the assignee of record of this patent application.

II.     **Related Appeals And Interferences**

There are no prior or pending appeals, judicial proceedings, or interferences which may be related to, directly affect or be directly affected by, or have a bearing on the Board's decision in this appeal.

III.    **Status Of Claims**

Claims 1, 8, 46-51, 53-67, 69-76, 78, 80-88, and 90-123 are pending in this patent application. Of those, claims 1, 8, 72-76, 78, 80, 81, 104-117, and 122 have been withdrawn from further consideration as being drawn to a non-elected invention. Claims 2-7, 9-45, 52, 68, 77, 79, and 89 were cancelled during prosecution.

Claims 46-51, 53-67, 69-71, 82-88, 90-103, 118-121, and 123 currently stand rejected, and are being appealed herein.

IV.     **Status Of Amendments**

No amendments were filed subsequent to the January 29, 2008 Final Office Action in this patent application, the rejections of which are being appealed herein. A copy of the claims involved in this appeal is provided in Section IX of this Appeal Brief.

V.      **Summary Of Claimed Subject Matter**

This patent application discloses and claims methods for creating or conducting bidding processes for telecommunication services. As described in the specification, "[p]rovision of telecommunication services is presently dominated by fixed contractual relationships, between

service providers on a wholesale basis and between users and service providers on a retail basis.

However, because of technological and regulatory changes, telecommunication service is

becoming more of a commodity, with competition between service providers for traffic."

(Published Application, ¶ 0009).[1]  The methods disclosed and claimed in the patent application

advantageously "stimulat[e] this competition and facilitat[e] a service provider's and a

consumer's ability to make economic choices between competing telecommunication carriers."

(*Id.*).

　　　　In accordance with one embodiment of the disclosed methods, a telecommunication

carrier determines the rate that it is willing to charge for service between switching points in a

network, and transmits this rate in the form of a bid for the service to a moderator.  (*See, e.g.*,

Published Application, ¶ 0010).  As bids are submitted from different telecommunication carriers

to the moderator, the moderator collects the bids and processes them.  (*See, e.g.*, Published

Application, ¶ 0012).  The moderator transmits the processed bid information to the carriers,

which then have the opportunity to submit a lower or higher bid for the service based on the bids

that have already been submitted.  (*See, e.g.*, Published Application, ¶ 0013).  The moderator

then selects one of the bidding carriers to provide the service based, for example, on that carrier

charging the lowest rate for the service.  (*See, e.g.*, Published Application, ¶ 0012).

　　　　Figure 1 of the patent application illustrates an exemplary system for carrying out a

bidding process for telecommunication services, and includes a Moderator 1, Carriers' network

management computers 2, subscribing switches or Subscribers 3, and adjunct computers 4.  (*See,*

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[1]　　References to the "Published Application" are to U.S. Patent Publication
No. 2002/0169716, which corresponds to the publication of this patent application, U.S. Patent
Application No. 08/851,483.

*e.g.*, Published Application, ¶¶ 0046, 0049). The independent claims involved in the appeal are described below in a non-limiting example in the context of Figure 1, which is reproduced below:



FIG. 1
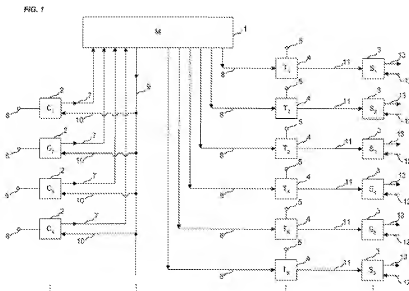
Independent claim 46 of the patent application recites a method for creating a bidding process among telecommunication Providers. The method includes, in a moderating computer such as Moderator 1 of Figure 1, receiving bids to provide telecommunication service over at least one route or route segment. (*See, e.g.*, Published Application, ¶¶ 0046, 0049). The method includes processing the bids to produce processed bid data, and storing the bids and the processed bid data in a data base of the moderating computer as first bidding data. (*See, e.g.*, Published Application, ¶¶ 0049-50).

The method of claim 46 further includes, in the moderating computer, transmitting at least a portion of the first bidding data to at least a portion of the telecommunication Providers. (*See, e.g.*, Published Application, ¶¶ 0054, 0071). For example, in the context of Figure 1, Moderator 1 can transmit bidding data to one or more of the Carriers 2. At least one

telecommunication Provider is designated by the moderating computer as a first designated Provider to provide telecommunication service over at least one route or route segment. (*See, e.g.*, Published Application, ¶ 0049). The method of claim 46 further includes, in a computer adjunct to at least one telecommunication switch, such as adjunct computer 4 of Figure 1, performing at least a portion of the processing or communications functions of the moderating computer. (*See, e.g.*, Published Application, ¶¶ 0049, 0051).

Independent claims 53, 63, 82, and 88 similarly involve methods for creating or conducting a bidding process, which generally include receiving and processing bids, as well as transmitting processed bid data to at least one of the bidding telecommunication Providers. Other features of independent claims 53, 63, 82, and 88 are described below.

The method of independent claim 53 includes among others, in the moderating computer, transmitting Provider designation data to at least one telecommunication switch, such as switch 3 of Figure 1. (*See, e.g.*, Published Application, ¶ 0049). In the telecommunication switch, the call attempt is routed in accordance with the Provider designation data. (*See, e.g.*, Published Application, ¶ 0051).

The method of independent claim 63 refers to the bids and processed bid data as "first switch data." The method includes among others, in the moderating computer or a first subscribing switch, transmitting at least a first portion of the first switch data to at least a portion of the telecommunication Providers. (*See, e.g.*, Published Application, ¶ 0071). The method further includes, in the first subscribing switch, designating at least one Provider as a first designated Provider to provide telecommunication service over at least one route or route segment, and routing at least one call attempt. (*See, e.g.*, Published Application, ¶ 0051).

The method of independent claim 82 refers to processing the bids to produced "processed bid information," and includes among others, distributing at least a first portion of the processed bid information to at least a portion of the telecommunication Providers, and transmitting at least a second portion of the processed bid information to at least one telecommunication switch. (*See, e.g.*, Published Application, ¶¶ 0051, 0071). The method includes routing at least one call attempt over at least one route or route segment in accordance with the designating of a Provider. (*See, e.g.*, Published Application, ¶ 0051).

The method of independent claim 88 also refers to processing the bids to produced "processed bid information," and includes among others, distributing at least a portion of the processed bid information to at least a portion of the telecommunication Providers. The method further includes transmitting Provider designation data to at least one telecommunication switch, or to a computer adjunct to the at least one telecommunication switch, for use in routing at least one call attempt. (*See, e.g.*, Published Application, ¶¶ 0049, 0051).

## VI.     Grounds Of Rejection To Be Reviewed On Appeal

Whether claims 46-51, 53-67, 69-71, 82-88, 90-103, 118-121, and 123 are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,790,642 to Taylor et al. ("Taylor") in view of U.S. Patent No. 6,161,099 to Harrington et al. ("Harrington").

## VII.    Argument

### A.     Rejection Under 35 U.S.C. § 103(a) Over Taylor In View Of Harrington

Claims 46-51, 53-67, 69-71, 82-88, 90-103, 118-121, and 123 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor in view of Harrington. For the reasons stated

below, this rejection is unsupported by the references, should be reversed, and the application should pass to allowance.

### 1.    The Law Of Obviousness

To reject a claim as being obvious, "the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved." *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966); *see also* M.P.E.P. § 2141. Once these inquiries have been resolved, it is then determined whether the claimed invention would have been obvious to one of ordinary skill in the art. *See KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1740-1741 (2007). And while it is no longer necessary that a patent examiner apply the teaching-suggestion-motivation test in making an obviousness argument, there still "must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.* at 1741 (citation omitted).

The rejection of the claims in the Final Office Action fails to satisfy the *Graham* factual inquiries required to establish a *prima facie* case of obviousness. First, it will be demonstrated that the cited Taylor and Harrington patents fail to teach or suggest all the features of applicants' claims. Second, the examiner's failure to articulate a proper reason in support of the obviousness rejection will be made clear. As background for these arguments, a description of the cited Taylor and Harrington patents is provided, as well as a further description of applicants' claimed approaches.

### 2.    The Cited References

Taylor discloses a system in which a plurality of service centers in a telecommunications network competitively bid for the rights to service a particular call. (*See* Taylor, Abstract). An originating service center receives a request to transmit facsimile information to a specified

telephone number, assembles a bid request, and transmits the bid request to bidding service

centers.  (*See* Taylor, col. 7, ll. 51-67).  Each service center includes a costing algorithm which

parses the information in the bid request and determines the cost to complete the call.  (*See*

Taylor, col. 5, ll. 5-11).  The calculated cost information (*i.e.*, bids) is transmitted from the

bidding service centers back to the originating service center.  (*See* Taylor, col. 5, ll. 12-17).  The

originating service center compares the bids and selects the lowest bidding service center to

make the call.  (*See* Taylor, col. 5, ll. 18-20).  An instruction, or "contract" to make the call is

sent to the lowest bidder.  The information required, including any facsimile data to be

transmitted, is sent to the lowest cost center, and the call is completed via the portion of the

public switched telephone network associated with the lowest cost service center.  (*See* Taylor,

col. 5, ll. 21-26).  Thus, after receiving bids from the bidding service centers, the next

communication between the originating service center and the bidding service centers is the

transmission of a contract to make the call to the lowest bidding service center, and the

information required to complete that call.  No other information (*e.g.*, bid data) is transmitted to

the bidding service centers by the originating service center.

      Harrington discloses an apparatus and process for conducting municipal bond auctions

over electronic networks.  (*See* Harrington, Abstract).  A user can participate in a municipal bond

auction by accessing a web site maintained by an auctioneer.  (*Id.*).  The user can submit a bid

for one or more bond maturities.  (*See* Harrington, col. 10, ll. 22-23).  After a bid is submitted,

the user is presented with a confirmation screen that summarizes the bid.  (*See* Harrington,

col. 10, ll. 42-45).  In Harrington, "[w]hen a bid is 'submitted', it is compared with the current

highest bid.  If the submitted bid is higher than the current highest bid, it becomes the new

current highest bid and, if desired, is made available to all bidders."  (Harrington, col. 5, ll. 32-

35). The auctioneer's computer notifies the bidders' computers of the successful bid at the close of the auction. (*See* Harrington, col. 5, ll. 35-36). "The auctioneer's computer also maintains a database of all bids which can be accessed by interested parties for their own use." (Harrington, col. 5, ll. 37-39).

### 3.  The Claimed Approaches

The method of independent claim 46 includes, in a moderating computer, "receiving bids to provide telecommunication service . . . , processing the bids to produce processed bid data, and storing the bids and the processed bid data in a database of the moderating computer as first bidding data." The method further includes, in the moderating computer, "transmitting at least a portion of the first bidding data to at least a portion of the at least two telecommunication Providers." Thus, the claimed method advantageously provides bidding data to a bidding telecommunication Provider, so that the Provider could, for example, adjust its own bid in view of another Provider's bid.

Independent claims 53, 63, 82, and 88 similarly involve providing a telecommunication Provider with data or information related to bids received from *other* telecommunication Providers. Claim 53, in element (b), refers to this as "first bidding data." Claim 63, in element (c), refers to this as "first switch data." Claims 82 and 88, in elements (c) and (e), respectively, refer to this as "processed bid information." For simplicity, the arguments below will refer to the phrase "bidding data" as specifically recited in claim 46. However, these arguments similarly apply to the "first bidding data," "first switch data," and "processed bid information" of the other independent claims involved in this appeal.

> **4.    The Rejection Of The Claims Should Be Reversed Because The Examiner Has Failed To Establish A *Prima Facie* Case Of Obviousness**

The examiner cites to Taylor as allegedly disclosing all the elements of independent claims 46, 53, 63, 82, and 88, with the exception of "in the Moderating computer, transmitting at least a portion of the first bidding data to at least a portion of the at least two telecommunication Providers and 'storing the bids and the processed bid data in a data base of the Moderating computer as first bidding data.'"  (Jan. 29, 2008 Office Action, pp. 3-4 and 7; *see also* pp. 9, 11).  The examiner cites to Harrington as allegedly disclosing these claimed features, and asserts that "it would have been obvious to combine the teachings of Taylor and Harrington to make sure that telecommunication service providers are properly compensated for the services they produce and to allow the telecommunication service providers to correct the current proposed bid." (Office Action, pp. 4, 7-8; *see also* pp. 9, 11).

Contrary to the examiner's assertions, it is submitted that the cited Taylor and Harrington patents fail to teach or suggest all the features of applicants' claims.  Furthermore, the examiner's proffered rationale in support of the obviousness rejection is insufficient.

> **a)    The Cited References Fail To Teach Or Suggest All The Features Of Applicants' Claims**

In stark contrast to the claimed approaches, both Taylor and Harrington fail to teach or suggest at least the transmission of the claimed "bidding data" to at least two telecommunication Providers.  The examiner acknowledges the deficiency of Taylor in this respect: "Taylor does not explicitly disclose [in] the Moderating computer, transmitting at least a portion of the first bidding data to at least a portion of the at least two telecommunication Providers." (Office Action, pp. 3-4, and 7; *see also* pp. 9, 11).

The examiner, however, asserts that Harrington fills this admitted gap in Taylor: "Harrington discloses transmitting at least a portion of the first bidding data to at least a portion of the at least two telecommunication Providers," and refers to column 10, line 42 to column 11, line 5 of Harrington. (Office Action, pp. 4, 7-8; *see also* pp. 9, 11). This portion of Harrington relates to providing a user of the municipal bond auction web site with a "confirmation screen":

> After a user selects the submit button 74 and the bid is verified as conforming to the bid parameters, the bidder is presented with a confirmation screen, an example of which is shown in FIG. 13, to confirm the bid prior to submission. As shown in FIG. 13, a summary of the bid is presented to the user in this confirmation. If confirmed, the bid will be electronically submitted to the auctioneer computer 10. The confirmation gives a safety check to users to help them avoid the submission of erroneous or undesired bids.

(Harrington, col. 10, ll. 42-50). Harrington also describes that "[i]f the submitted bid is higher than the current highest bid, it becomes the new current highest bid and, if desired, is made available to all bidders." (Harrington, col. 5, ll. 32-35).

While Harrington generally discloses providing a user of its auction web site with a summary of its bid for confirmation, and making the highest bid available to all users if desired, Harrington in no way discloses providing the claimed "bidding data" to at least a portion of at least two telecommunication Providers, as is required by applicants' claims. The examiner glosses over these aspects of the claims, and simply refers to the confirmation screen of Harrington as disclosing the transmission of the claimed "bidding data." The examiner also makes the conclusory statement that "bidders as disclosed by Harrington constitute the telecommunication providers as disclosed by the applicant." (Office Action, pp. 4, 7-8; *see also* pp. 9, 11). While it may be convenient for the examiner to give short shrift to these claim elements, in doing so the examiner has failed to establish that Harrington teaches or suggests these features of the claims.

In fact, neither the confirmation screen of Harrington, nor Harrington's description of making the highest bid available to bidders, teaches or suggests transmitting "bidding data" to a telecommunication Provider as claimed. The claimed "bidding data," as described above, is the result of processing bids to provide telecommunication service. Therefore, for Harrington to disclose this feature of the claim, Harrington would have to disclose the transmission of bidding data resulting from the processing of bids for telecommunication service. This simply is not the case, as Harrington is completely unrelated to providing telecommunication service. Furthermore, the bidders of Harrington are not "telecommunication Providers" as claimed. Rather, they are users of an auction web site for municipal bonds. Therefore, Harrington simply cannot disclose the transmission of "bidding data" to a telecommunication Provider.

Thus, for at least these reasons, Harrington fails to fill the admitted gap in the disclosure of Taylor, and therefore the combination fails to teach or suggest all the elements of independent claims 46, 53, 63, 82, and 88.

> b) **The Examiner Has Failed To Articulate A Proper Reason In Support Of The Obviousness Rejection**

For a rejection to satisfy the requirements for a *prima facie* case of obviousness, there "must be some articulated reasoning with some rational underpinning" to support it. *KSR Int'l Co.*, 127 S.Ct. at 1741 (citation omitted). In rejecting the claims as obvious in this patent application, the examiner asserts that "it would have been obvious to combine the teachings of Taylor and Harrington to make sure that telecommunication service providers are properly compensated for the services they produce and to allow the telecommunication service providers to correct the current proposed bid." (Office Action, pp. 4, 7-8; *see also* pp. 9, 11). It is submitted that the reasoning provided by the examiner is insufficient to support the combination

of Taylor with Harrington, and therefore cannot satisfy the requirements for a *prima facie* case of obviousness.

The first reason the examiner provides – "mak[ing] sure that telecommunication service providers are properly compensated for the services they produce" –is something Taylor already accounts for in its method.  Taylor describes that "operational block 416 transmits the information required to process the job, *as well as the bid award* to the lowest cost service center."  (Taylor, col. 9, ll. 3-6).  Thus, in Taylor, the bidding service centers are indeed compensated for their services, and therefore the examiner's reason for combining Taylor with Harrington with regard to compensation is insufficient.

The second reason the examiner provides – "allow[ing] the telecommunication service providers to correct the current proposed bid" – is taken directly from applicants' own disclosure.  Notably, applicants' patent application states that "[t]he bids can be adjusted to be higher or lower, dependent on whether the Carrier, in view of the state of its network traffic, wishes to further encourage or discourage additional traffic."  (Published Application, ¶ 0071).  And, during prosecution of this patent application, applicants have also referenced this advantage disclosed in the patent application, stating that "the claimed method advantageously provides bidding data to a bidding telecommunication Provider, so that the Provider could, for example, adjust its own bid in view of another Provider's bid."  (Nov. 13, 2007 Reply to Office Action, p. 4).  The examiner's attempt to use this advantage as a reason for combining Taylor with Harrington demonstrates that the examiner is employing hindsight, which is improper.  *See Ortho-McNeil Pharm., Inc. v. Mylan Labs., Inc.*, 520 F.3d 1358, 1364 (Fed. Cir. 2008) (stating that hindsight reconstruction "is always inappropriate for an obviousness test").  This reason

therefore does not satisfy the "rational underpinning" the law of obviousness requires, and cannot support the obviousness rejection.

Accordingly, for at least these reasons, independent claims 46, 53, 63, 82, and 88 are patentable over the combination of Taylor with Harrington, and the rejection of the claims under section 103 should be reversed. In addition, dependent claims 47-51, 54-62, 64-67, 69-71, 83-87, 90-103, 118-121, and 123 are allowable at least because independent claims 46, 53, 63, 82, and 88 are allowable. Thus, the rejections of the dependent claims are moot and should also be reversed.

## VIII.  Conclusion

In view of the above, the examiner's rejection of claims 46-51, 53-67, 69-71, 82-88, 90-103, 118-121, and 123 should be reversed, and the claims should be allowed.

Respectfully submitted,

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IX.     **Claims Appendix**

46.     A method for creating a bidding process among telecommunication Providers in which a

moderating computer collects bids from at least two telecommunication Providers,

processes the bids and designates at least one Provider of the at least two

telecommunication Providers to provide telecommunication service, wherein the method

comprises:

a.      in the moderating computer, receiving bids to provide telecommunication service

over at least one route, or at least one route segment, on at least one

telecommunication network, processing the bids to produce processed bid data,

and storing the bids and the processed bid data in a data base of the moderating

computer as first bidding data;

b.      in the moderating computer, transmitting at least a portion of the first bidding data

to at least a portion of the at least two telecommunication Providers;

c.      in the moderating computer, designating at least one Provider of the at least two

telecommunication Providers as a first designated Provider to provide

telecommunication service over at least one route, or at least one route segment,

on at least one telecommunication network; and

d.      in a computer adjunct to at least one telecommunication switch, performing at

least a portion of the processing or communications functions of the moderating

computer.

47.     A method of Claim 46 in which the processed bid data includes Provider designation

data.

48.     A method of Claim 47 in which the Provider designation data includes designation of the first designated Provider.

49.     A method of Claim 47 in which the Provider designation data includes designation of at least one alternate Provider.

50.     A method of Claim 47 in which the moderating computer, or a computer adjunct to the moderating computer, transmits at least a portion of the Provider designation data to the at least one telecommunication switch, or to the computer adjunct to the at least one telecommunication switch, for use in routing at least one call attempt.

51.     A method of Claim 46 in which the first designated Provider is a default Provider or a contract Provider.

53.     A method for creating a bidding process among telecommunication Providers in which a moderating computer collects bids from at least two telecommunication Providers, processes the bids and designates at least one Provider of the at least two telecommunication Providers to provide telecommunication service, wherein the method comprises:

        a.      in the moderating computer, receiving bids to provide telecommunication service over at least one route, or at least one route segment, on at least one telecommunication network, processing the bids to produce processed bid data, and storing the bids and the processed bid data in a data base of the moderating computer as first bidding data;

       b.     in the moderating computer, transmitting at least a portion of the first bidding data to at least a portion of the at least two telecommunication Providers;

       c.     in the moderating computer, designating at least one Provider of the at least two telecommunication Providers as a first designated Provider to provide telecommunication service over at least one route, or at least one route segment, on at least one telecommunication network;

       d.     in the moderating computer, transmitting Provider designation data to at least one telecommunication switch; and

       e.     in the at least one telecommunication switch, routing at least one call attempt in accordance with the Provider designation data.

54.     A method of Claim 53 in which the Provider designation data includes designation of at least one alternate Provider.

55.     A method of Claim 53 in which bidding rules specify that all bids indicate at least one specific future time interval during which the telecommunication service is to be provided.

56.     A method of Claim 53 including, in the moderating computer, transmitting at least a portion of the first bidding data to at least one end user or to at least one reseller.

57.     A method of Claim 53 comprising, in the moderating computer, receiving decision rules from an administrator associated with the moderating computer or from an administrator associated with at least one subscribing switch or from at least one end user or from at least one reseller, processing at least a portion of the first bidding data and at least a

portion of the decision rules, and designating at least the first designated Provider for the provision of telecommunication service.

58. A method of Claim 53 in which the moderating computer transmits at least a portion of the first bidding data to at least a portion of the at least two telecommunication Providers subsequent to designating the first designated Provider to provide telecommunication service.

59. A method of Claim 53 in which the first designated Provider is a default Provider or a contract Provider.

60. A method of Claim 53 in which one or more adjunct computers perform at least a portion of the processing or communications functions of the moderating computer or the at least one telecommunication switch.

61. A method of claim 53 in which the moderating computer or the at least one telecommunication switch is operated by a local access telecommunication service provider.

62. A method of Claim 53 comprising, in the moderating computer, processing the bids in accordance with bidding rules to produce processed bid data.

63. A method for creating a bidding process among telecommunication Providers in which a moderating computer collects bids from at least two telecommunication Providers, processes the bids and communicates with a first subscribing switch, thereby enabling the first subscribing switch to designate at least one Provider of the at least two

telecommunication Providers to provide telecommunication service, wherein the method comprises:

a.  in the moderating computer, receiving bids to provide telecommunication service over at least one route, or at least one route segment, on at least one telecommunication network, processing the bids to produce processed bid data, and storing the bids and the processed bid data in a data base of the moderating computer as first switch data;

b.  in the moderating computer or the first subscribing switch, transmitting at least a first portion of the first switch data to at least a portion of the at least two telecommunication Providers;

c.  in the moderating computer, transmitting at least a second portion of the first switch data to the first subscribing switch;

d.  in the first subscribing switch, designating at least one Provider of the at least two telecommunication Providers as a first designated Provider to provide telecommunication service over at least one route, or at least one route segment, on at least one telecommunication network; and

e.  in the first subscribing switch, routing at least one call attempt in accordance with Provider designation data.

64.  A method of Claim 63 in which the first portion of the first switch data is the same as the second portion of the first switch data, or in which the first portion includes the second portion of the first switch data, or in which the first portion is included in the second portion of the first switch data.

65. A method of Claim 63 in which the moderating computer is a computer adjunct to the first subscribing switch.

66. A method of Claim 63 in which the first subscribing switch is operated by the moderating computer, or by an administrator associated with the moderating computer, or by at least one end user, or by at least one reseller, or by a local access telecommunication service provider.

67. A method of Claim 63 comprising, in the first subscribing switch, receiving decision rules from an administrator associated with the moderating computer or from an administrator associated with the first subscribing switch or from at least one end user or from at least one reseller, processing at least the second portion of the first switch data and at least a portion of the decision rules, and designating at least the first designated Provider for the provision of telecommunication service.

69. A method of Claim 63 in which the first subscribing switch designates at least one alternate Provider.

70. A method of Claim 63 in which the moderating computer or the first subscribing switch transmits at least the first portion of the first switch data to at least a portion of the at least two telecommunication Providers subsequent to the first subscribing switch designating the first designated Provider to provide telecommunication service.

71. A method of Claim 63 in which at least a portion of the processing or communications functions of the moderating computer or the first subscribing switch is performed by one or more adjunct computers.

82.     A method for conducting an automated bidding process among a plurality of telecommunication Providers, comprising:

      a.     receiving, from at least two telecommunication Providers, bids to provide telecommunication service over at least one route, or at least one route segment, on at least one telecommunication network;

      b.     processing the bids to produce processed bid information;

      c.     distributing at least a first portion of the processed bid information to at least a portion of the at least two telecommunication Providers;

      d.     transmitting at least a second portion of the processed bid information to at least one telecommunication switch;

      e.     designating at least one Provider of the at least two telecommunication Providers as a first designated Provider to provide telecommunication service over at least one route, or at least one route segment, on at least one telecommunication network; and

      f.     routing at least one call attempt over the at least one route or the at least one route segment in accordance with the designating of at least the first designated Provider.

83.     A method of Claim 82 in which each of Steps a. - f. is accomplished by means of computer processing.

84.     A method of Claim 82 in which the first portion of the processed bid information is the same as the second portion of the processed bid information, or in which the first portion

includes the second portion of the processed bid information, or in which the first portion is included in the second portion of the processed bid information.

85. A method of Claim 82 in which at least the first portion of the processed bid information is distributed to at least a portion of the at least two telecommunication Providers subsequent to the designating of the first designated Provider to provide telecommunication service.

86. A method of Claim 82 in which the designating of the first designated Provider is performed by a moderating computer or by the at least one telecommunication switch or by at least one computer adjunct to the moderating computer or adjunct to the at least one telecommunication switch.

87. A method of Claim 82 in which at least a portion of the bidding process of Steps a. through f. is conducted in accordance with bidding rules.

88. A method for conducting an automated bidding process among a plurality of telecommunication Providers, comprising:

    a. receiving, from a Buyer, a request for telecommunication service over at least one route, or at least one route segment, on at least one telecommunication network;

    b. processing the request and distributing a processed request to a plurality of telecommunication Providers;

    c. receiving, from at least two telecommunication Providers, bids to provide the telecommunication service described in the request;

    d. processing the bids to produce processed bid information;

e. distributing at least a portion of the processed bid information to at least a portion of the at least two telecommunication Providers;

f. designating at least one Provider of the at least two telecommunication Providers as a first designated Provider to provide the telecommunication service described in the request, wherein the processed bid information includes Provider designation data; and

g. transmitting at least a portion of the Provider designation data to at least one telecommunication switch, or to a computer adjunct to the at least one telecommunication switch, for use in routing at least one call attempt.

90. A method of Claim 88 in which the Provider designation data includes designation of the first designated Provider.

91. A method of Claim 88 in which the Provider designation data includes designation of at least one alternate Provider.

92. A method of claim 88 in which a moderating computer, or a computer adjunct to the moderating computer, transmits the at least a portion of the Provider designation data to the at least one telecommunication switch, or to the computer adjunct to the at least one telecommunication switch, for use in routing the at least one call attempt.

93. A method of Claim 92 in which the designating of the first designated Provider is performed by the moderating computer, by the at least one telecommunication switch, by the computer adjunct to the moderating computer, or by the computer adjunct to the at least one telecommunication switch.

94.     A method of Claim 88 in which at least a portion of the processed bid information is distributed to at least a portion of the at least two telecommunication Providers subsequent to the designating of the first designated Provider to provide telecommunication service.

95.     A method of Claim 88 in which at least a portion of the bidding process of Steps a. through g. is conducted in accordance with bidding rules.

96.     A method of Claim 88 in which each of Steps a. – g. is accomplished by means of computer processing.

97.     A method of Claim 88 comprising, in a moderating computer, receiving decision rules from an administrator associated with the moderating computer or from an administrator associated with the at least one telecommunication switch or from at least one Buyer, processing at least a portion of the first bidding data and at least a portion of the decision rules, and designating at least the first designated Provider for the provision of telecommunication service.

98.     A method of Claim 88 in which the Buyer submits the request to a moderating computer by entering request data into a first software defined template residing on a computer bulletin board system or on a website.

99.     A method of Claim 88 in which request data comprises a plurality of the following elements: end points of the route or route segment; a specific future time interval; required transport capacity; required quality of service criteria; a set of acceptable Providers; and a maximum acceptable price.

100.    A method of Claim 88 in which a moderating computer, or a computer adjunct to the moderating computer, distributes the processed request to at least a portion of the plurality of telecommunication Providers by posting the processed request on a computer bulletin board system or on a website accessible to at least a portion of the plurality of telecommunication Providers.

101.    A method of Claim 88 in which one or more Providers of the at least two telecommunication Providers submits one or more bids by entering bid data into a second software defined template residing on a computer bulletin board system or on a website.

102.    A method of Claim 88 in which a moderating computer, or a computer adjunct to the moderating computer, distributes at least a portion of the processed bid information to at least a portion of the at least two telecommunication Providers by posting at least a portion of the processed bid information on a computer bulletin board system or on a website accessible to at least a portion of the at least two telecommunication Providers.

103.    A method of Claim 88 in which at least a first Provider of the at least two telecommunication Providers transmits to a moderating computer a pre-request submission, including response criteria, for use by the moderating computer as a bid by the at least a first Provider in response to one or more future requests for telecommunication service meeting the response criteria.

118.    A method of Claim 46 in which the moderating computer transmits at least a portion of the first bidding data to at least a portion of the at least two telecommunication Providers

subsequent to designating the first designated Provider to provide telecommunication service.

119. A method of Claim 46 in which the moderating computer transmits at least a portion of the first bidding data to at least a portion of the at least two telecommunication Providers by posting at least a portion of the first bidding data on a computer bulletin board system or on a website accessible to at least a portion of the at least two telecommunication Providers.

120. A method of Claim 53 in which the moderating computer transmits at least a portion of the first bidding data to at least a portion of the at least two telecommunication Providers by posting at least a portion of the first bidding data on a computer bulletin board system or on a website accessible to at least a portion of the at least two telecommunication Providers.

121. A method of Claim 63 in which the moderating computer or the first subscribing switch transmits at least a first portion of the first switch data to at least a portion of the at least two telecommunication Providers by posting at least a first portion of the first switch data on a computer bulletin board system or on a website accessible to at least a portion of the at least two telecommunication Providers.

123. A method of Claim 82 in which a moderating computer, or a computer adjunct to the moderating computer, distributes at least a first portion of the processed bid information to at least a portion of the at least two telecommunication Providers by posting at least a

first portion of the processed bid information on a computer bulletin board system or on a

website accessible to at least a portion of the at least two telecommunication Providers.

X.      **Evidence Appendix**

None

## XI.     Related Proceedings Appendix

None